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09/818,262	03/26/2001	Mark E. Ogram	1414S	9231

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11/29/2006

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EXAMINER

NGUYEN, MINH CHAU

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,262

Applicant(s)

OGRAM, MARK E.

Examiner

MINH-CHAU N. NGUYEN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-10 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-10 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the amendment of the applicant filed on 10/16/06.

Claims 1-2,5-10,12-22 are presented for further examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2,5-6,10,12-13,16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zustak et al. (Zustak) (US 2002/0087402A1).
2. Claim 1, Zustak teaches a communications system comprising:
 - a) a distributed network for computers (paragraph 30);
 - b) a broadcast computer (i.e. a set-top box (STB) 22) connected to said distributed network for computers (i.e. network devices 28) (figure 1; and paragraph 3,27-30,34), said broadcast computer (i.e. a set-top box (STB) 22) having access to,
 - 1) a first stream of video containing entertainment content (i.e. a soccer video event) (figure 5; and paragraph 2,6,49,54,56), and,
 - 2) a second banner of video containing commercial content (i.e. a banner style advertisement 522 in figure 5) (figure 8; and paragraph 3,53-

54); said broadcast computer (i.e. a set-top box (STB) 22) programmed to simultaneously communicating the first stream of video and the second banner of video to a remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) via said distributed network for computers (paragraph 3,49-54,56).

Zustak fails to teach the commercial content, is shown in figure 5, is a video stream. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

3. Claim 2, Zustak teaches a remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) connected to said distributed network for computers and programmed to,

a) receive at least one stream and one banner of video (paragraph 48-49,56); and,

b) simultaneously display said first stream of video and said second banner of video (paragraph 48-49,54,56).

Zustak fails to teach the second banner of the video is a video stream. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

4. Claim 5, Zustak teaches the communications systems,

a) wherein said first stream of video include an audio component and said second banner of video (paragraph 3,34-35,49-54); and,

b) wherein said remote computer (i.e. user's television 24, or network device 28) includes,

1) audio speakers (i.e. the audio speakers are inherited from the user's television 24 or the network device 28) (paragraph 35,49-54), and,

2) programmed to, responsive to operator input, selectively communicate the audio component from said first stream of video or said second banner of video to said audio speakers (paragraph 3, 49-54).

Zustak fails to teach the second banner of the video is a video stream and include an audio component. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3), so that the second video advertisement would include the audio component to communicate with the audio speaker.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement and the second video advertisement would include the audio

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component, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

5. Claim 6, Zustak teaches the communications network,

a) further including a remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) programmed to,

1) receive at least one stream and one banner of video from said broadcast computer (i.e. a set-top box (STB) 22) via said distributed network of computers (paragraph 48-49,56), and,

2) communicate an indicia to said broadcast computer via said distributed network of computers (i.e. selection of the appropriate advertisements by using a remote control 36) (paragraph 48-49,56); and,

b) wherein said broadcast computer (i.e. a set-top box (STB) 22) further includes access to,

1) a third banner of video, said third banner of video containing commercial content (i.e. another banner advertisement from a menu of advertisements shown in figure 3) (paragraph 49-54,61); and,

2) is programmed to, responsive to the indicia from said remote computer, communicate said third banner of video in lieu of the second banner of video (i.e. displaying the banner advertisement when the user

makes a selection of an appropriate advertisement from the menu of advertisements by using a remote control 36) (paragraph 48-49,56,61).

Zustak fails to teach the second banner and the third banner of the video are video streams. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner or a third banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

6. Claim 10, Zustak teaches the communications system,

a) wherein said broadcast computer (i.e. a set-top box (STB) 22) includes time dependent data (i.e. a timer/a given time slot), and wherein said broadcast computer is programmed to communicate said time dependent data to said

remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) (paragraph 50,58,68); and,

b) wherein said remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) is programmed to display said time dependent data in conjunction with said first stream of video and said second banner of video (paragraph 50,58,68).

Zustak fails to teach the second banner of the video is a video stream. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

7. Claim 13, Zustak teaches said broadcast computer (i.e. a set-top box (STB) 22) includes a memory storing the second banner of video (paragraph 29,52-54).

Zustak fails to teach the second banner of the video is a video stream. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

8. Claim 16, Zustak teaches said broadcast computer (i.e. a set-top box (STB) 22) is programmed to communicate an audio component with said first stream of video (paragraph 3,34-35,49-54).

Zustak fails to teach the second banner of the video is a video stream and include an audio component. However, in the same field of endeavor having

closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3), so that the second video advertisement would include the audio component to communicate with the STB 22 (i.e. broadcast computer).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement and the second video advertisement would include the audio component, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

9. Claim 17, Zustak teaches said broadcast computer (i.e. a set-top box (STB) 22) further includes:

a) a third banner of video, said third banner of video containing commercial content (i.e. another banner advertisement from a menu of advertisements shown in figure 3) (paragraph 49-54,61); and,

b) is programmed to, responsive to an indicia from the remote computer, simultaneously communicate said third banner of video in lieu of the second

banner of video with the first stream of video (i.e. displaying the banner advertisement when the user makes a selection of an appropriate advertisement from the menu of advertisements by using a remote control 36) (paragraph 48-49,56,61).

Zustak fails to teach the second banner and the third banner of the video are video streams. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner or a third banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

10. Claim 18, Zustak teaches a method of communicating entertainment content comprising the steps of:

a) arranging a first stream of entertainment video (i.e. a soccer event) (figure 5; and paragraph 2,6,49,54,56) and a second banner of video, said second banner of video being substantially of commercial content; and (i.e. a banner style advertisement 522 in figure 5) (figure 8; and paragraph 3,53-54),

b) simultaneously communicating the first stream of entertainment video and the second banner of video to a remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) via a distributed network of computers (paragraph 3,49-54,56).

Zustak fails to teach the commercial content, is shown in figure 5, is a video stream. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

11. Claim 21, Zustak teaches the remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) includes the step of selectively communicating an audio component from said first stream of entertainment video to audio speakers located proximate to the remote computer (i.e. the audio speakers are inherited from the user's television 24 or the network device 28) (paragraph 3, 49-54).

Zustak fails to teach the second banner of the video is a video stream and include an audio component for communicate with the speaker. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3), so that the second video advertisement would include the audio component to communicate with the audio speaker.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement and the second video advertisement would include the audio component, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial

content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

12. Claim 12 is corresponding claim of claim 1. Therefore, it is rejected under the same rationale.

13. Claims 19-20,22 are corresponding method claims of system claims 2,4,6. Therefore, they are rejected under the same rationale.

14. Claims 7-9,14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zustak as applied to claims 1,12 above, and further in view of Liwerant et al. (Liwerant) (US 2002/0056123A1).

15. Claim 7, Zustak teaches the communications system,

a) wherein said second banner of video, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3), includes identifiers therein (i.e. packet ID) (paragraph 34); and

b) wherein said identifiers are periodically communicated to said remote computer (i.e. user's television 24, or network device 28 (i.e. remote computer)) (paragraph 34-35,49-54).

Zustak fails to teach the second banner of video, which may take the form of a scrolling banner at the top, bottom or other location in the video image

(including an open window) provides video advertisement, includes address identifiers. However, Liwerant, in the same field of endeavor having closely related objectivity, teaches the video stream includes address identifiers (paragraph 6).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Liwerant's teachings of the video stream includes address identifiers, in the teachings of Zustak in user selective advertising, for the purpose of providing an useful in a computer file processing, storage and retrieval system can further identify the video.

16. Claim 8, Zustak and Liwerant disclose the invention substantially as claimed.

Zustak teaches said remote compute (i.e. user's television 24, or network device 28 (i.e. remote computer)) is programmed to communicate a historical listing of said identifiers (i.e. a menu of advertisements in figure 3) to a user of said computer (paragraph 49,52,61). Besides this, Liwerant teaches address identifiers of the video (paragraph 6).

17. Claim 9, Zustak and Liwerant disclose the invention substantially as claimed.

Zustak teaches said remote computer (i.e. user's television 24, or network device 28) is programmed to, responsive to an operator selection of a selected identifier (i.e. advertisement), connect said remote computer to a merchant computer remote (i.e. a head end of the service provider 10 in figure 1) from said broadcast

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computer (i.e. a set-top box (STB) 22) (i.e. displaying the banner advertisement when the user makes a selection of an appropriate advertisement from the menu of advertisements by using a remote control 36) (paragraph 27,48-49,56,61). Moreover, Zustak also teaches the banner advertisement of the video, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3). Besides this, Liwerant teaches address identifiers of the video (paragraph 6).

18. Claim 14, Zustak teaches said first stream of video is supplied to said broadcast computer (i.e. a set-top box (STB) 22) via a transmission medium 20 (figure 1; and paragraph 27).

Zustak fails to teach the video stream is supplied to the broadcast computer via a camera. However, Liwerant, in the same field of endeavor having closely related objectivity, teaches the video stream is supplied to the broadcast computer via a camera (figure 1D; and paragraph 79,82,100).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Liwerant's teachings of the video stream is supplied to the broadcast computer via a camera, in the teachings of Zustak in user selective advertising, for the purpose of providing an useful in a transmitting video in streaming video format over a network.

19. Claim 15, Zustak and Liwerant disclose the invention substantially as claimed.

Zustak teaches said first stream of video is communicated by said means for simultaneously communicating substantially upon receipt of said first stream of video from said the server provider by said broadcast computer (figure 1; and paragraph 27,49-54). Besides this, Liwerant teaches receipt of the video stream from the camera by a server 62 (or a video hosting service) (figure 1D; and paragraph 79,82,100).

Response to Arguments

Applicant's arguments filed 10/16/06 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-2,5-10,12-22 have been considered but are moot in view of the new ground(s) of rejection.

1. (B) The invention of Zusak does not have the capability to present two video streams simultaneously.

As to point (B), Zusak does teach presentation of a first stream of video containing entertainment content (i.e. a soccer video event) (figure 5; and paragraph 2,6,49,54,56), and a second banner of video containing commercial content (i.e. a banner style advertisement 522 in figure 5) (figure 8; and paragraph 3,53-54); which are presented to the view simultaneously (paragraph 3,49-54,56).

Zustak fails to teach the commercial content, is shown in figure 5, is a video stream. However, in the same field of endeavor having closely related objectivity, Zustak teaches the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement (paragraph 3).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Zustak's teachings of the banner ads, which may take the form of a scrolling banner at the top, bottom or other location in the video image (including an open window) provides video advertisement, in the teaching of presentation of the first stream of video containing entertainment content and a second banner of video containing commercial content which are presented to the view simultaneously, for the purpose of providing more appealing and more information entice the commercial of sales.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-CHAU N. NGUYEN whose telephone number is (571)272-4242. The examiner can normally be reached on Monday-Friday from 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JASON D. CARDONE can be reached on (571) 272-6159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

JASON CARDONE
SUPERVISORY PATENT EXAMINER

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Examiner: Minh-Chau Nguyen
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JASON CARDONE
SUPERVISORY PATENT EXAMINER